

Before the State of South Carolina
Department of Insurance

In the matter of:

John F. Whirl

328-B Dorchester Manor Blvd

North Charleston, S. C. 29402

File Number 108143

Default Order Revoking
Resident Insurance Agent's License

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 2000), by the State of South Carolina Department of Insurance upon John F. Whirl by both certified mail, return receipt requested, and by regular mail on June 7, 2001.

By that letter, Whirl was informed of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. Further, he was warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a resident insurance agent and bail bondsman within the State of South Carolina. **Despite that warning, Whirl has failed to respond to the Department's letter.** On July 9, 2001, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance agent and bail bondsman within the State of South Carolina Whirl was convicted by the South Carolina Circuit Court of General Sessions, Charleston County, of "Breach of Trust With Fraudulent Intent of Five Thousand Dollars or More" in The State v. John F. Whirl (Criminal) Docket Number 2000-GS-10-6151.

S.C. Code Ann. § 38-43-130 (Supp. 2000) provides: "The director or his designee may revoke or suspend an agent's license after ten day's notice...when it appears that an agent has been convicted of a crime involving moral turpitude...." The crime of Breach of Trust with Fraudulent Intent involves moral turpitude. See In re Derrick, 301 S.C. 367, 392 S.E.2d 180 (1990). In addition Section 38-53-150(6) of the South Carolina Code provides that the Director of Insurance may revoke a bail bondsman's license for "... conviction of a felony within the last ten years regardless of whether the conviction resulted from conduct in or related to the bail bond business." The criminal act of "Breach of Trust With Fraudulent Intent of Five Thousand Dollars or More is a felony. See Section 16-13-230 (B)(3) of the South Carolina Code of Laws.

In accordance with my findings of fact, and considering Whirl's failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that Whirl was convicted of a crime of moral turpitude and a felony, and that his resident insurance agent license and bail bondsman license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§

30-40-10, *et seq.* (1991 and Supp. 2000). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (4) (Supp. 2000), of the Director of Insurance, exercised either directly or through the Department of Insurance, to “report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report.”

It is therefore ordered that John F. Whirl’s licenses to transact business as a resident insurance agent and bail bondsman within the State of South Carolina be, and are hereby, revoked, and that no license, issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Whirl is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance agent and bail bondsman within the State of South Carolina.

This order takes effect upon the date of my signature below.

A handwritten signature in dark ink, appearing to read "E.N. Csiszar", with a long, sweeping horizontal stroke extending to the right.

Ernst N. Csiszar
Director

9 July 2001, at
Columbia, South Carolina